

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

Ferrell Benjamin Gibbs,

Petitioner,

v.

United States of America,

Respondent.

C/A No. 06:03-CR-0609

ORDER

[Written Opinion]

This matter is before the Court on Petitioner's "Motion to Reconsider this Court's Order of October 4th, 2005" which denied Petitioner's motion to proceed *in forma pauperis* on appeal. The instant motion was filed on October 17, 2005. For the reasons stated below, the motion is DENIED.

Petitioner is proceeding *pro se*. This Court is required to construe *pro se* pleadings liberally. Such pleadings are held to a less stringent standard than those drafted by attorneys. *Gordon v. Leeke*, 574 F.2d 1147, 1151 (4th Cir. 1978). This Court is charged with liberally construing a pleading filed by a *pro se* litigant to allow for the development of a potentially meritorious claim. *Boag v. MacDougall*, 454 U.S. 364, 365 (1982).

Petitioner is once again seeking leave to pursue an appeal with the Fourth Circuit *in forma pauperis*. Federal Rule of Appellate Procedure 24(a), which governs motions to proceed *in forma pauperis*, provides in pertinent part:

[A] party to a district-court action who desires to appeal in forma

pauperis must file a motion in the district court. The party must attach an affidavit that:

(A) shows in the detail prescribed by Form 4 of the Appendix of Forms, the party's inability to pay or to give security for fees and costs;

(B) claims an entitlement to redress; and

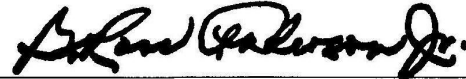
(C) states the issues that the party intends to present on appeal.

FED. R. APP. P. 24(a).

As did Petitioner's original motion to proceed *in forma pauperis*, his motion to reconsider also fails to claim an entitlement to redress or state the issues that Petitioner intends to present on appeal as required by Rule 24(a) of the Federal Rules of Appellate Procedure. Petitioner's assertion that this Court did not require this same information in granting permission to proceed *in forma pauperis* on direct appeal from the original sentencing proceedings is false. Petitioner's earlier motion to proceed *in forma pauperis*, filed on May 28, 2004, did in fact state his issues on appeal and an entitlement to redress. Furthermore, contrary to Petitioner's statement in the instant motion, the May 28, 2004 motion was not filed on Form AO 240. Petitioner's misrepresentations to this Court will not enable him to circumvent the requirements of Federal Rule of Appellate Procedure 24(a).

IT IS THEREFORE ORDERED that Petitioner's "Motion to Reconsider this Court's Order of October 4th, 2005" be DENIED.

IT IS SO ORDERED.



G. ROSS ANDERSON, JR.
UNITED STATES DISTRICT JUDGE

Anderson, South Carolina

October 24, 2005.

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified that he has the right to appeal this Order within sixty (60) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure. Failure to meet this deadline, as modified within Rule 4, will waive the right to appeal.